

MAY 03 2010

CLERK U.S. DISTRICT COURT
DISTRICT OF WASHINGTON AT TACOMA
DEPUTY

COMPLAINT

ANTI TRUST, MALICIOUS PROSECUTION,
RIGHTS, REPUTATIONAL LOSS OF LIBERTYVIOLATION OF DUE PROCESS
RACKETEERING, SLANDER

C10-05316KLS

The complaint is filed against the following people:

1. Dr. John S. Davis
2. AG Stephen Carpenter
3. AG Aileen Miller
4. AG Kim O'Neil
5. David Molinaro/DSHS
6. ALJ John Kuntz
7. ALJ Robert Krabill (OAH)
8. Dr. Terry Grubb
9. Carl Whinnery
10. Investigator (MFCU) Jeff Oerlerich

Dr. John Davis- orchestrated the plot to destroy my reputation; stigmatize me through defamation of character, false press, releases, false documents sent to Federal agencies: the National Practitioner Data Bank, the OIG Exclusion Program and the DEA; thus limiting and ultimately destroying the possibility for licensure in another state as well as employment.

Dr. John Davis Dr. Davis used or caused to be used various tactics that interfered with my business which resulted in unfair competition and ultimately the destruction of my business. Dr. John Davis used the power that he garnered from his positions at DSHS as Senior Dental Administrator and his appointment as Chair of the Dental Quality Assurance Commission and the myriad of other powerful positions that he held to destroy my business.

In fact, Dr. Davis hatched a plot to develop a policy for termination of the DSHS provider contract that was used to disregard the rules that were in place to govern the audit and appeal process (WAC 388-502-0240). The rules that Dr. Davis used to illegally terminate my provider contract were not enacted into law and did not supersede the WAC 388-502-0240 rules.

Despite the fact that I had complained about Dr. Davis' conflict of interest because he was both the Chair of the Dental Quality Assurance Commission as well as Senior Dental Administrator of DSHS; and I would later find out that he held many other positions

T-7303
No Summary

that were in conflict; Dr. Davis self-appointed himself to review my audit findings. Dr. Davis kept his identity a secret until the day of the first dispute hearing. Dr. Davis enlisted the help of the auditor in order to terminate my provider contract. This was in violation of the Government auditing standards, standards that required the auditor to remain independent and impartial. Standards that required the manager, Dr. Davis, to make certain that the auditor remained independent and impartial. It was also in violation of WAC 388-502-0240 (13c) and 14, 15)

Dr. John Davis - was also responsible for giving the audit dept., the go ahead to, in violation of the fourth amendment, invade my privacy, without any laws in place, and search my assets.

Dr. John Davis - was supposed to recuse himself from voting on the dental Commission in order to avoid conflicts of interests. However, there is evidence that Dr. Davis voted to have a complaint against me go forward.

Dr. John Davis- in an attempt to cover up his illegal termination of my DSHS provider contract provided false information to the dental Commission in order to revoke my dental license.

Dr. Davis -- was also instrumental in the audit statistics being manipulated in order to get more money from me. He was also instrumental in the many laws that were broken during the post audit review and he was also involved in making sure that the OAH DSHS hearing was completely biased. In fact, I believe that Dr. Davis wrote the first initial order.

Dr. Davis amassed an enormous amount of power and ruled with and egomaniacal iron hand. Dr. Davis also enlisted other state agents, including Ag Lisa Pan, Ag Carpenter in his scheme to stigmatize me and first cause my license to be restricted through prosecutorial and judicial misconduct, and second the aid of Ag O'Neil to prosecute the bogus charges propelled by an ex-parte panel using the wrong standard of proof and a 3 man panel consisting of two dentists and a public member with no expertise, or experience, but who also revealed a language comprehension problem in 2006 disciplinary hearing.

AG Stepehn Carpenter - prosecuted me in the 2006 disciplinary hearing. Ag Carpenter:

1. withheld evidence that was exculpatory
2. withheld the identity of their expert witness through subterfuge until the day before the hearing. The expert witness turned out to be the Chair of the Board of my malpractice insurance company. Using him was in violation of CR 26(g), among other rules.
3. conspiring with Judge Kuntz to manufacture and conceal evidence in the 2006 hearing
4. knowingly made charges that he knew to be false
5. Made False information to Federal agencies knowingly; thereby stigmatizing me nationwide, causing me to lose business, insurance contracts, causing my malpractice insurance to dramatically increase, causing me to have to pay a \$10,000 fine to the Commission, wrongfully
5. relitigation of charges that had been dismissed through summary judgment and conspiring with health law judge Kuntz to find me guilty of all charges dismissed; resulting in Double Jeopardy

AG AILEEN MILLER - Participated and led the Medicaid Fraud Control Unit in the illegal search and seizure of my dental office. Ms. Miller and MFCU investigators, including Jeff Oerlerich wrote a search warrant specifically naming five patients and then set about to seize over 3600 **original records which have never been returned.** In fact, Ms. Miller is trying to return copies of those records.

Ag Miller - also brought criminal charges against me in June of 2008 for five counts of Medicaid Fraud totaling \$1183 dollars that had already been repaid, two years earlier; thus violating the OIG Directives. After intense and illegal coercion in an attempt to make me plead guilty to misdemeanor, Ms. Miller dismissed the charges January 12, 2010. However, over \$25,000 in legal fees and another \$50,000 spent in airfare and expenses, not to mention the stress of being criminally charged, harassed, and intimidated.

Investigator Jeff Oerlerich -MFCU - Mr.Oerlerich partipated in the illegal search and seizure of original dental records related to the audit. Only five records should have been taken and they should have been copies. Mr. Oerlerich refused to return the original records when I asked for them; stating that he would return copies of those records. I refused the copies. I also believe that Mr. Oerlerich was also the leader and orchestrator behind the terrorism and harassment; as well as the property damage that took place at my house. (Over 3600 original records were taken by Jeff Oerlerich and MFCU. Mr. Oerlerich was also the orchestrator and coordinator of MFCU agents who violated ny fourth amendment rights at will.

AG Kim O'neil- was the prosecutor involved with the emergency summary suspension of my dental license, I believe concocted by Dr. John Davis. As prosecutor, Ms. O'Neil submitted evidence that she knew was false, and not substantial.

Violation of my constitutional rights

1. procedural due process violations
2. confrontation/hearsay violations (not allowing me to face my accuser)
3. helping to write the final order which included inflammatory remarks made by Ms. O'Neil in an attempt to further stigmatize me
4. false, slanderous press releases
5. altering documents, removing documents from the certified agency record.
6. improper notification of charges
- 7, not following the Dental Commission's own rules
8. conspiring with Dr. Davis to revoke my dental license for life abusing her discretion

AUDITOR DAVID MOLINARO

Willingly participating in the illegal termination of my DSHS provider contract by conspiring with Dr. John S. Davis. Refusal to follow the government auditing standards. Falsifying audit documents. Falsifying statistics. Violating my fourth amendment rights. Falsifying his credentials.

Incompetent, unaware of the rules that governed the audit process (WAC 388-502-0240). Soliciting complaints from patients in 2003 that somehow wound up on the audit in 2005. Adding charts to the sample after the sample had been drawn. Not following the methodology set out by DSHS when he conducted the audit. Issuing a penalty without the appropriate knowledge to do so.

ALJ JOHN KUNTZ- conspiring with AG Carpenter and Dr. John Davis to find me guilty of charges that would restrict my license; and therefore stigmatize me. Judicial bias. Refusal to enter into evidence the declaration of Patient 4 which said that Ag Carpenter had called her and found out that she had received her and her husband's record; in an attempt to protect Mr. Carpenter. The unjustified interference with my attorney's attempt to cross examine patient 4 about Mr. Carpenter's phone call to her. Manufacturing and concealing evidence with Ag Carpenter. Finding me guilty of charges he had dismissed during summary judgment; resulting in double jeopardy. Allowing complaints that had been reworked by the State's attorney to go forward; thus not allowing me to face my accuser. Judicial bias, judicial misconduct resulting in reputational stigma. Constitutional violations: procedural due process, double jeopardy, improper notification of charges, confrontation hearsay clause.

ALJ ROBERT KRABILL - Judicial bias, Judicial misconduct
Would not allow me rebuttal witnesses
Would not allow me access to all of the evidence
Would not allow me to cross examine Mr. Molinaro in order to impeach him; and whenever he feared that Mr. Molinaro was in danger; he would interrupt and finish his testimony or he would provide another inappropriate reason for unjustifiably curtailing my cross examination. A confrontation hearsay violation. Procedural due process violations
Gave no weight to all of the evidence; for example, no weight was given to the perjury of Dr. Davis and auditor Molinaro
Concealed evidence by turning off the digital recorder and having the court reporter turn off her recorder.
Refused to acknowledge evidence that was indicative of DSHS' wrongdoing.
Altered the digital recordings, altered the court reporter's transcription or had her alter it. The court transcriptionist informed me that she checked her transcription by using the judge's digital recording.
Refused to recuse or disqualify himself due to his bias.
Swore me under oath even though there were charges of fraud against me.
His findings of fact and conclusions of law gave no weight to all of the evidence
Not a neutral or impartial trier of fact.

DR. TERRY GRUGG -DQAC EXPERT WITNESS. Also, Dr. Grubb was the Chairman of the Board of my malpractice Co., Nordic Insurance Co. Mr. Carpenter knew this information since 2002 when Dr. Grubb was asked to look at certain x-rays. The hearing was in 2006. Dr. Grubb breached my confidentiality during voir dire. Judge Kuntz ignored this breach of confidentiality, the conflict of interest and the bias and allowed Dr. Grubb to testify as DQAC's expert witness. Use of Dr. Grubb by DQAC was in violation of CR 26(g) and the Appearance of Fairness doctrine. DQAC continued to use Dr. Grubb despite objections of bias, conflict of interest and breach of fiduciary duty. Dr. Grubb testified against me for the Dental Commission, and in particular Patient 1. Patient 1 had filed a claim against me and was awarded \$8000 more than his claim was worth. Dr. Grubb testified against me and for Patient 1. This is when I became certain that Nordic was in league with DQAC.

Dr. Grubb continued to be used by DQAC in the Ex Parte Summary Suspension hearing where he provided hearsay upon hearsay testimony that was supposed to be substantial; but was not. He was also used by DQAC in emergency summary suspension hearing whereupon he provided testimony without proper preparation that allowed DQAC to revoke my dental license. The charge that was supported by his lack of preparation was failure to properly train my dental assistant. Dr. Grubb testified that he did not see any training records.

CARL WHINNERY - A neighbor who lives across the street from me that allowed DQAC to use his RV to set up a command post; whereby agents of DQAC or MFCU resided 24 hours a day, seven days a week. Their purpose was to watch me, follow me, enter my home at will and steal evidence, enter my car at will and steal evidence; enter my office at will and steal evidence. Entry was through the garage door, the sliding glass doors. My phone and my computer were monitored. My satellite service was stolen and these people viewed me through my TV, a specialized co-axial cable. My electricity was also stolen. Mr. Whinery also permitted these people to park their trucks and vehicles in the back of his home.

After Mr. Whinery sold his RV; MFCU or agents of DQAC committed home invasion and proceeded to terrorize me. Mr. Whinery still allowed them to park their vehicles in the back of his garage, on his property. Ultimately, these agents drove me from my home through various acts of terrorism.

THE RURAL HEALTH SHORTAGE AREA DESIGNATION AND THE BILLIONS OF DOLLARS EXPECTED

My dental practice was very successful. I had over 5000 DSHS patients who came from multiple counties. Therefore, in 2004, I applied for the rural health shortage area designation and I received it because I had the right ratio of patients to dentist: 5000:1. The rural health shortage area designation was for the entire county, Mason County.

Dr. Davis' plot to destroy my business began in 2003 when he got his first job at DSHS and was looking for large fraud dollars. Dr. Davis initiated an audit against me at that time; but closed it after he had gotten the results. Public disclosure would later reveal that Dr. Davis expected to get \$258,739.12 if the audit had been conducted at that time; but he wanted to wait to get a bigger monetary outcome. Dr. Davis' termination of the audit without informing me of the outcome was against Government Auditing Standards that DSHS is supposed to follow if they accept federal funds.

After I acquired the Rural Health Shortage Area Designation, Dr. Davis was even more determined to steal my business and used his various offices to do so. Complaints had been made by multiple providers regarding his tactics and his conflicts of interest; but the Governor turned a deaf ear.

Dr. Davis' disdain for the law is evident in his methods. Dr. Davis does not follow DQAC's or DSHS' rules. He has no oversight and has turned both agencies into small replicas of pre-war Nazi, Germany.